

**BEFORE THE DIVISION OF INSURANCE**

**STATE OF COLORADO**

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**FINAL AGENCY ORDER O-05-051**

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**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF AMEX  
ASSURANCE COMPANY,**

**Respondent**

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**THIS MATTER** comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of AMEX Assurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated July 8, 2004 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

**FINDINGS OF FACT**

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on July 8, 2004, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2003, to December 31, 2003.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.
5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the

Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.

6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, any and all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

### **CONCLUSIONS OF LAW AND ORDER**

8. Unless expressly modified in this Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Improper certification of a cancellation and non-renewal form used by the Company. The Respondent shall provide evidence that it has filed a complete annual certification that includes all forms currently in use and has implemented all necessary changes to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue B concerns the following violation: Failure, in some cases, to provide surcharge notices. The Respondent shall provide evidence that it has reviewed and corrected its guidelines pertaining to providing notification of policy surcharges to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue C concerns the following violation: Failure, in some cases, to provide proper notification of a cancelled policy. The Respondent shall provide evidence that it has reviewed and corrected its guidelines pertaining to providing proper notification of policy cancellation to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
12. Issue D concerns the following violation: Delay, in some cases, in the payment of PIP benefits. The Respondent shall provide evidence that it has reviewed its claims handling of PIP benefit payments and implemented necessary procedural changes to ensure compliance with Colorado insurance law. The Division's

records indicate that Respondent has complied with the corrective actions ordered concerning this violation

13. Pursuant to § 10-1-205(3)(d), C.R.S., the Respondent shall pay a civil penalty in the amount of six thousand two hundred fifty dollars and no/100 (\$6,250.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
14. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self-audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self-audit reports must be received within ninety (90) days of the Order, with a summary of the findings and all monetary payments to covered persons.
15. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
16. Copies of the examination report, the Respondent's response, and this Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

**WHEREFORE:** It is hereby ordered that the findings and conclusions contained in the Report dated July 8, 2004 are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 28th day of October, 2004.



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Doug Dean  
Commissioner of Insurance

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 28th day of October, 2004, I caused to be deposited the **Final Agency Order No. O-05-051 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF AMEX ASSURANCE COMPANY**, in the United States mail via certified mailing with proper postage affixed and addressed to:

Mr. Kenneth J. Ciak, President  
AMEX Assurance Company  
3500 Packerland Drive  
DePere, WI 54115

Jennifer Piczkowski,  
Corporate Compliance Auditor  
AMEX Assurance Company  
3500 Packerland Drive  
DePere, WI 54115

A handwritten signature in black ink, reading "Dolores Arrington". The signature is fluid and cursive, with the first name "Dolores" and last name "Arrington" clearly distinguishable.

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Dolores Arrington, MA, AIRC  
Market Conduct Section